

JASON S. LEIDERMAN, SBN 203336  
[jay@criminal-lawyer.me](mailto:jay@criminal-lawyer.me)  
LAW OFFICES OF JAY LEIDERMAN  
5740 Ralston Street, Suite 300  
Ventura, California 93003  
Tel: 805-654-0200  
Fax: 805-654-0280

Attorney for Plaintiffs  
JAMES MCGIBNEY  
VIAVIEW, INC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JAMES MCGIBNEY, an individual, and  
VIAVIEW, INC, a corporation,  
  
Plaintiffs,  
  
vs.  
THOMAS RETZLAFF, an individual,  
  
Defendant.

Case No.:

**COMPLAINT FOR DAMAGES FOR:**

- (1) TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS;**
- (2) TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE;**
- (3) INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS;**
- (4) DEFAMATION;**
- (5) PUBLIC DISCLOSURE INVASION OF PRIVACY**

**DEMAND FOR JURY TRIAL**

Plaintiffs James McGibney ("Mr. McGibney"), an individual, and ViaView, Inc. ("ViaView"), a corporation (collectively, "Plaintiffs"), set forth the following causes of action against Defendant Thomas Retzlaff ("Retzlaff"), and allege as follows:

**INTRODUCTION**

1. Beginning in October 2013 and continuing through the present, Defendant has relentlessly harassed, defamed, cyber-stalked and invaded the privacy of Mr. McGibney, in a deliberate effort to emotionally harm him and financially damage his business, ViaView, Inc. In addition to committing relentless personal attacks which included threats of violence, Defendant carried out a coordinated effort

1 to ruin Plaintiffs' relationships with advertisers and sponsors, costing Mr. McGibney and ViaView  
2 thousands of dollars of revenue. Mr. McGibney asks this court to right these financial and personal  
3 harms.

4 **PARTIES**

5 2. Plaintiff Mr. McGibney, at all relevant times mentioned herein, was and is now an individual  
6 residing and domiciled in San Jose, California. He also owns residential property in Las Vegas, Nevada.

7 3. Plaintiff ViaView is a Delaware corporation with its business centers in San Jose, California and  
8 Las Vegas, Nevada. ViaView is the owner and operator of the popular websites  
9 <http://www.bullyville.com> ("BullyVille"), <http://www.karmaville.com> ("KarmaVille"),  
10 <http://www.slingerville.com> ("SlingerVille"), <http://www.cupidville.com> ("CupidVille") and  
11 <http://www.cheaterville.com> ("CheaterVille").

12 4. Plaintiffs are informed and believe and based thereon allege that Defendant Retzlaff was and is  
13 now an individual residing and domiciled in Tarrant County, Texas.

14 **JURISDICTION**

15 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332, as the parties in this case  
16 are completely diverse and the matter in controversy exceeds, exclusive of interest and costs, the sum of  
17 \$75,000. Further, the Court has pendent and supplemental jurisdiction over the state law claims alleged  
18 herein pursuant to 28 U.S.C. § 1367.

19 **VENUE**

20 6. A substantial part of the events giving rise to the claims sued upon herein occurred in San Jose,  
21 California.

22 7. Retzlaff is a resident of Texas, but has directed the conduct complained of herein at Plaintiffs,  
23 who at all relevant times based in San Jose.

24 8. Retzlaff knew that Mr. McGibney's residence and domicile were in San Jose, California.  
25 Indeed, he published Mr. McGibney's San Jose address.

26 9. On information and belief, Retzlaff knew Plaintiff ViaView was based on San Jose, California.

27 10. On information and belief, Retzlaff intentionally directed his conduct in order to cause harm to  
28 Plaintiffs' interests in San Jose.

1 11. Therefore, venue lies in the Northern District of California pursuant to 28 U.S.C. § 1391(b)(2),  
2 and this court's exercise of jurisdiction in this case is reasonable and appropriate.

3 **FACTUAL ALLEGATIONS**

4 **I. Plaintiffs' Operate Popular Anti-Bullying Websites BullyVille and CheaterVille.**

5 12. Mr. McGibney and his business ViaView operate the websites BullyVille and CheaterVille (the  
6 "Websites").

7 13. The Websites aim to give a voice to those victimized by bullying (BullyVille) or romantic  
8 infidelity (CheaterVille) by providing a public platform upon which victims may tell their stories.

9 14. Like many Internet-based businesses, the primary revenue source for the Websites comes from  
10 advertisers.

11 15. All ViaView sites average approximately one million individual and unique user hits per month.

12 16. Plaintiffs are and were at all times relevant to this suit parties to numerous contracts with  
13 advertisers, including but not limited to:

- 14 a. Spokeo.com
- 15 b. Lijit.com
- 16 c. Advertise.com
- 17 d. Godaddy.com
- 18 e. Digit covers

19 17. Combined advertising revenue lost as the result of defendant's conduct exceeds \$19,300 per  
20 month. This loss does not include other losses described herein. The calculations of loss for the effect  
21 upon other advertisers that would have been drawn to the sites, or from the loss of clicks toward  
22 advertisers that have remained, attributable directly to the direct harassment of Mr. McGibney or the  
23 harassment of celebrity spokespeople described in detail herein, has ratcheted up the loss to at least  
24 \$250,000.00 already, and that amount grows each day.

25 18. Prior to Retzlaff's conduct complained of herein, Plaintiffs enjoyed a good working relationship  
26 with his advertisers listed in paragraph 11 and most advertisers had been doing business with ViaView  
27 continuously for two or more years. Visits to his site were growing and he had no problems with  
28

1 celebrity spokespersons wanting to distance themselves from his websites. Rather, it was quite the  
 2 opposite: many high profile celebrities have supported BullyVille over the years.

3 19. Plaintiff Mr. McGibney vigorously goes after owners, operators and purveyors of “revenge porn”  
 4 websites with the intent of shuttering those websites. Wikipedia has a good definition of “revenge  
 5 porn.” It states: “Revenge porn is sexually explicit media that is publicly shared online without the  
 6 consent of the pictured individual. [¶] Revenge porn is typically uploaded by ex-partners or hackers.  
 7 Many of the images are “selfies” which are taken by the subject of the photo. The images are often  
 8 accompanied by personal information, including the pictured individual’s full name, links to Facebook  
 9 and social media profiles or addresses.”

10 20. Revenge porn is now illegal in several jurisdictions, including California. Plaintiff McGibney  
 11 has been very successful in permanently shutting down numerous “revenge porn” sites and has been  
 12 credited with saving the lives of dozens of young girls. These girls were often underage and many were  
 13 contemplating suicide in part because their naked images landed on these despicable sites.

14 **II. Retzlaff’s Campaign of Harassment of, Defamation of, and Interference With Plaintiff’s**  
 15 **Business.**

16 21. Defendant Thomas Retzlaff was a prolific user of these “revenge porn” sites. Plaintiff Mr.  
 17 McGibney has identified at least 18 victims (mostly female) whose personal information and/or nude  
 18 images Retzlaff has posted on revenge porn sites TEXXXAN.COM, MYEX.COM,  
 19 ISANYONEUP.COM, ISANYONEUP.NET and YOUTGOTPOSTED.COM.

20 22. As a result, a number of women victimized by these sites, and Retzlaff’s conduct, have filed  
 21 multiple lawsuits and restraining orders against Retzlaff in Texas.

22 23. Defendant Retzlaff is also a convicted felon, having been imprisoned from 1998 through 2004,  
 23 for sexual assault, burglary and unlawful possession for a weapon.

24 24. Once Mr. McGibney successfully shut down a few of these websites, including  
 25 ISANYONEUP.COM, he immediately became a target and obsession for Retzlaff.

26 25. Beginning in late October 2013, Retzlaff began targeting Plaintiffs using a vast array of social  
 27 media accounts, across many different platforms, using many different aliases. These aliases,  
 28 colloquially referred to as “sock puppets” or “socks,” were intended to hide Retzlaff’s true identity.

1 They had the further purpose of creating the illusion of broad support for Retzlaff's extreme views while  
 2 he carried out his stalking and cyber-terrorism.

3 26. The names and accounts Retzlaff used include, but are not limited to:

- 4 a. The Twitter account @MrTexxxan;
- 5 b. An account named LongJohnSilver on BullyVille;
- 6 c. A Facebook account for user Scott Jewels;
- 7 d. A Facebook account for user Molly Santucci;
- 8 e. The Twitter account @KellySwift4;
- 9 f. A Facebook account for user Kelly Swift;
- 10 g. E-mail alias James Smith: james.smith871003@gmail.com;
- 11 h. TheDirty.com alias DickHertz,
- 12 i. The Twitter account @PedoCaptain;
- 13 j. The Twitter account @bright\_Anon;
- 14 k. The Twitter account @BV\_Truther;
- 15 l. The Twitter account @BV\_Truth;
- 16 m. The Twitter account @Klansmann; and
- 17 n. E-mail alias Dean Allen: deanallen5634@outlook.com.

18 27. Plaintiffs have taken numerous steps to confirm that it is Retzlaff behind each alias or "sock"  
 19 listed herein, including but not limited to lawfully tracking internet protocol addresses, mac addresses<sup>1</sup>  
 20 and matching email addresses between accounts. Mr. Retzlaff does not take significant steps to conceal  
 21 his identity online besides using multiple names and accounts and a less-than-stable VPN<sup>2</sup> connection.  
 22 Plaintiff is certain he can prove that all accounts complained of herein belong to Retzlaff.

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26 <sup>1</sup> Internet Protocol or IP addresses are unique addresses that show what computer is creating the packets sent through the  
 27 internet. A MAC address is the functional equivalent of a serial number. Both are part of the metadata that computers  
 exchange as part of routine internet traffic, including visiting websites and sending emails.

28 <sup>2</sup> A VPN, or "virtual private network," is a technology that allows a user to obscure his true IP address by encrypting that  
 user's traffic and routing it through a separate IP address.

1 28. Plaintiffs reasonably anticipate that Retzlaff will continue to create multiple aliases to harass,  
2 stalk, terrorize and defame Plaintiffs and their business partners in order to continue inflicting emotional  
3 and financial harm.

4 29. On October 30, 2013, Retzlaff publicly tweeted from the @MrTexxxan account (an account  
5 associated with revenge porn website www.texxxan.com) that he was “surprised no one has shot them  
6 fools [Mr. McGibney] yet. lots of crazy ppl in the world off their meds”

7 30. The @MrTexxxan account has since been suspended by Twitter.

8 31. On November 2, 2013, Retzlaff, posting using alias “LongJohnSilver,” wrote several paragraphs  
9 in the comments section of an article published on BullyVille targeting Mr. McGibney, stating, “**If I was**  
10 **listed on his website I would put a bullet in his head.** It’s as simple as that. . . . You walk up behind  
11 him at a Wal-mart of whatnot, you shot [*sic*] him and take off, dump the gun in Lake Mead or  
12 somewhere and you’re go [*sic*] to go. **So go ahead James, keep it up.** Sooner or later you’re going to  
13 step on the wrong set of toes and you’re going to come across a real life tough guy, not an internet tough  
14 guy like a Hunter Moore,<sup>[3]</sup> and **it’s gonna cost you and your family your lives.**”

15 32. On November 2, 2013, Retzlaff replied to a comment on BullyVille with his “LongJohnSilver”  
16 alias “Crazy people do not care if they get caught. **They will kill you** regardless as to the consequences  
17 to them because they are crazy. So while it’s all well and good that the FBI will eventually catch them  
18 (assuming they’re not one of the 40% who literally get away with murder), it does you little good **if**  
19 **you’re the dead guy or the dead family.**”

20 33. On or around November 3, 2013, Retzlaff, using alias “Scott Jewels,” wrote in the comments  
21 section of an article discussing a lawsuit filed by a stalking victim:

22 a. “James McGibney at BullyVille is a lying piece of human garbage.”

23 b. “Obviously [a famous single mother]<sup>4</sup> and Bullyville’s allegations are a complete lie.

24 That f@ggot who runs BullyVille, James McGibney was screaming and hollering  
25

26 <sup>3</sup> Hunter Moore is a well-known personality who pioneered the “revenge porn” website genre on his site, isanyoneup.com.  
27 Mr. McGibney secured a \$250,000 judgment against Hunter Moore for conduct similar to that alleged here. Moore is  
currently under federal indictment for hacking conspiracy charges.

28 <sup>4</sup> McGibney became involved in the defense of a woman when she was viciously attacked by people over the internet. The  
comments referenced in paragraphs 33 reflect his involvement in that suit.

1 about how he (McGibney) was going to get Jon and all of his supporters and how Jon  
2 was a thief and physically abused [the mother] and all sorts of nonsense. I hope Jon  
3 sued McGibney and his homo attorney to death.”

4 c. “James McGibney is a lying homosexual.”

5 d. “James and Christina McGibney live at [redacted for safety], they own a revenge porn  
6 website Cheaterville.”

7 34. On the same website, at around the same time, Retzlaff posted the name of Mr. McGibney’s wife  
8 and their home address a second time.

9 35. On the same website, Retzlaff amplified his harassment by also using the alias “Molly Santucci,”  
10 agreeably replying to posts by “Scott Jewels.”

11 36. On November 15, 2013, Retzlaff again used the alias Molly Santucci to directly contact DJ  
12 ASHBA via Facebook. Mr. Ashba, as is described below, is a musician and celebrity spokesperson for  
13 BullyVille. Mr. Ashba was falsely told that CheaterVille is a “revenge porn website” and Retzlaff, via  
14 “sock” accounts encouraged DJ ASHBA to “remove [his] endorsement and end [his] relationship with  
15 revenge porn BullyVille!!!!!!”

16 37. On the same day, Retzlaff, using Twitter alias @KellySwift4, tweeted a similar statement to Mr.  
17 Ashba: “@DjASHBA Why do you support revenge porn w/ ur BullyVille endorsements? Don’t u know  
18 BV runs Cheaterville revenge porn site too?!!”

19 38. Mr. Ashba is a musician with a world-famous rock group. His endorsement created a lot of  
20 interest in BullyVille from advertisers new and old. Plaintiffs estimate he drove hundreds of thousands  
21 of visitors to BullyVille every month.

22 39. After receiving these and other unwanted messages from Retzlaff, and learning that Retzlaff was  
23 convicted of a felony and served time in prison, Mr. Ashba became fearful for his safety and the safety  
24 of his family.

25 40. Mr. Ashba has reduced his role in BullyVille significantly as a result of Retzlaff’s conduct and  
26 because Mr. Ashba has concerns for his personal safety that he did not previously have.



1 41. Plaintiffs estimate the loss of Mr. Ashba as a sponsor has, and will continue to, cost Plaintiffs at  
 2 least \$9,300 per month in advertising revenue as a result of fewer site visitors and significantly less  
 3 interest from new advertisers.

4 42. Retzlaff has not only harassed Mr. Ashba in connection with his campaign against Mr.  
 5 McGibney. He has harassed ViaView's PR firm, Lexicon Public Relations and celebrity Becca Tobin  
 6 from GLEE on FOX. Each distanced themselves from BullyVille due to safety concerns caused by  
 7 Retzlaff's harassment campaign. This has caused an additional loss of revenue for ViaView.

8 43. Again on November 15, 2013, using Twitter alias @Doxing\_McGibney,<sup>5</sup> Retzlaff publicly  
 9 tweeted Mr. McGibney's wife's name and their Las Vegas address. Retzlaff further tweeted Mr.  
 10 McGibney's San Jose address.

11 44. On November 15, and November 26, 2013, Retzlaff, using email alias James Smith, sent  
 12 harassing e-mails to blogger Adam Steinbaugh. In these e-mails, Retzlaff threatened to release private  
 13 information about Mr. McGibney:

14 a. "I happen to work for a large multi-national company overseas, as I mentioned to you  
 15 before. As such, my HR Dept. has access to the LexisNexis Accurint LE Plus and  
 16 ChoicePoint CLEAR databases so as to fulfill all of our Govt contracts and regulatory  
 17 requirements. So if I were to say look up an Adam Steinbaugh or a James McGibney,  
 18 I would have access to a whole host of valuable personal, financial, and legal  
 19 information. What kind of car they drive, who they bank with, where they have lived  
 20 at for the past 20 yrs. (and who with), credit reports, traffic and arrest info, property  
 21 transactions, civil cases, any kind of hunting, fishing or drivers licenses, or trade  
 22 licenses, and just pages and pages worth of stuff. But not just on them, but on each of  
 23 their family members, too! And the family members of those family members."

24 b. "And if that information on all those people found its way to a document hosting site,  
 25 well, that would be just too bad, wouldn't it? But then again, you guys started this  
 26

27 

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 <sup>5</sup> "Dox" is a common Internet abbreviation for "documents," usually referring to personal information. "Doxing" is the act of  
 28 publishing such personal information.



1 game first. So how would Mrs. McGibney feel to find her personal details doxed or  
 2 her family members doxed? Or Mr. & Mrs. Steinbaugh? You think they all want to  
 3 be involved in you guys' game of doxing people and ordering twitter followers to  
 4 'destroy their lives' like Bullyville and Cpt Obvious always call for?"

5 45. On November 28, 2013, Retzlaff, on the website radaronline.com, using alias Scott Jewels,  
 6 publicly wrote: "Now he [Mr. McGibney] throws rocks at random people from his Bullyville website.  
 7 McGibney also runs REVENGE PORN website Cheaterville. McGibney charges people \$199 in order  
 8 to remove their photos and posts. McGibney is filth."

9 46. That statement is false and, as with all of the others, it was made with the knowledge of its  
 10 falsehood and with actual malice. Neither Mr. McGibney, nor ViaView, charge anyone to remove their  
 11 posts from CheaterVille, nor do they allow pornography – or any nudity for that matter.

12 47. On that same date, and through his @mrtexxxan Twitter account, Defendant Retzlaff tweeted "It  
 13 will be really funny seeing someone post pics of ur wife Christina when she is shopping at Smith's with  
 14 ur two kids."

15 48. On December 6, 2013, Retzlaff, using alias DickHertz, publicly posted on TheDirty.com: "James  
 16 & Christina McGibney run Bullyville website, a site that HATES Nik and the Dirty. Yet McGibney and  
 17 his wife also run revenge porn site CheaterVille! And they also work with scam take Down Hammer  
 18 site TruthInPosting.com to charge little girls \$199 to remove Cheaterville pics and posts. Talk about  
 19 hypocrites! McGibney and his wife scam girls with revenge porn, but they hate Hunter Moore and  
 20 Nik!!!"

21 49. This is another complete and intentional lie by Retzlaff. Users of CheaterVille have the option to  
 22 login and make their post invisible. Furthermore, CheaterVille adheres to all DMCA takedown requests  
 23 within 48 hours.

24 50. Defendant Retzlaff has claimed on multiple occasions that ViaView and McGibney own  
 25 TruthInPosting, which is another false claim. TruthInPosting is an arbitration service, run by licensed  
 26 mediators and attorneys. Neither Plaintiff owns TIP, nor do they "charge little girls \$199 to remove  
 27 Cheaterville pics and posts" as Retzlaff falsely claims they do.  
 28

1 51. On December 11, 2013, Retzlaff, using Facebook alias Kelly Swift, publicly contacted Plaintiffs'  
 2 business partner Brickhouse Security, stating: "Why are you people advertising on a revenge  
 3 pornography website? I find this VERY DISGUSTING!! [sic] You are helping to support the  
 4 victimization of women and children!!! Cheaterville.com is a revenge porn website that charges girls  
 5 \$199 to remove photos. Same with Bullyville.com, its [sic] all terrible and you should not advertise on  
 6 there. YOU NEED TO PULL YOUR ADS NOW!!!!"

7 52. Brickhouse Security's Facebook account replied: "Thank you for bringing this up to our  
 8 attention. We certainly do not want to be associated with any websites that would damage our brand.  
 9 We will look into the matter and take the necessary actions to prevent this from happening again. Thank  
 10 you, Brickhouse Security Team."

11 53. Shortly thereafter, Brickhouse Security pulled all ads from CheaterVille.

12 54. On December 17, 2013, Retzlaff, using Twitter alias @PedoCaptain, publicly tweeted at  
 13 BullyVille's Twitter account: "@BullyVille **I would like to bury a hatchet right in your fucking**  
 14 **damn face.** Public info: [address redacted] – vegas [sic.] ANYONE?????"

15 55. On or around December 26, 2013, Retzlaff, using Facebook alias Kelly Swift, publicly posted  
 16 further accusations on the Facebook page of a BullyVille advertiser that Mr. McGibney was operating a  
 17 "revenge porn" website.

18 56. On December 30, 2013 and January 7, 2014, Retzlaff, using E-mail alias James Smith, sent Mr.  
 19 McGibney harassing e-mails which mentioned "advertisers . . . dropping you like a bad habit" and  
 20 "celebrities [who] are runny [sic.] away as fast as they can." It continued: "You've got a business to run  
 21 here and putting up crazy, irrational tweets isn't going to make customers comfortable or advertisers  
 22 happy."

23 57. On January 15, 2014, Retzlaff, using Twitter alias @bright\_Annon publicly tweeted: "[ ] Did u  
 24 know that McGibney charges girls \$199 to remove their intimate photos and personal details?  
 25 Bullyville also works with his..." Defendant Retzlaff made claims that anti-bullying website BullyVille  
 26 was a "revenge porn website." This claim is, of course, absolutely false and without any merit  
 27 whatsoever, was made with the knowledge of its falsehood and with actual spite, ill will and malice.  
 28

1 58. On January 16, 18, and 22 2014, Retzlaff, using E-mail alias James Smith, sent Mr. McGibney  
 2 further e-mails discussing his relationship with advertisers: “And is not calling an advertiser to complain  
 3 a perfectly legitimate form of expression? . . . The only person killing your advertising is you, sir. And  
 4 you damn well know it!”

5 59. The e-mails acknowledge Retzlaff’s intent to ruin Plaintiffs’ relationships with advertisers: “I  
 6 spent a total for 30 minutes – all together – with my complaints to your advertisers. That includes time  
 7 spent on hold. And look how obviously effective it has been!!”

8 60. On January 23, 2014, Retzlaff, using Twitter alias @BV\_Truther, publicly tweeted:  
 9 “@BullyVille Yes, because getting into a pointless twitter fight w/ someone who has nothing to lose is a  
 10 winning strategy for ur family.” This was a response to a tweet from BullyVille which read, “Strong  
 11 people stand up for themselves but the strongest people stand up for others.” The header (description)  
 12 for @BV\_Truther was “exposing the truth about Bullyville’s lies by calling HR Dept’s one at a time and  
 13 getting ads on revenge porn sites shut down as soon as they pop up!”

14 61. On February 2, 2014, Retzlaff, posting on an anonymous account, submitted pictures and text  
 15 disparaging Mr. McGibney on www.myex.com, an *actual* revenge porn website.<sup>6</sup> The post was titled  
 16 “James McGibney is a lying hypocrite who cheats!!” and stated that Mr. McGibney “extorts money  
 17 from young girls and their families over the internet. He is the scum of the earth.”

18 62. This post, which created a web page titled “Naked Pics of James A. McGibney – Las Vegas –  
 19 Nevada: MyEx.com” appeared in Google search results for James McGibney, meaning that when  
 20 someone would search for information about Plaintiff McGibney, this false and defamatory post would  
 21 be listed in the results. The post did not in fact include any naked pictures.

22 63. On February 8, 2014, Retzlaff, using E-mail alias Dean Allen, sent an incredibly lengthy e-mail  
 23 to numerous members of ViaView’s board of directors, falsely claiming that “Cheaterville.com is a  
 24 revenge porn website that engages in the abuse of young women and girls (and men!) by posting their  
 25 intimate photographs and personal information.”

26  
 27 <sup>6</sup> The very top of the front page of www.myex.com says “GET REVENGE.” It specifically hosts “Nude Photos” along with  
 28 names, ages, and locations of the subjects of these nude photos, which are posted without the subject’s consent. A clearer  
 violation of California’s revenge porn law, Penal Code § 653.2(a)(2), is barely imaginable.

64. In this e-mail, Retzlaff ventured into extortion by stating that McGibney needed to delete all “Ville” websites and permanently delete all data contained within each website and his @bullyville twitter account or the attacks would continue.

65. In the same e-mail, Retzlaff admits knowledge that CheaterVille “does not post nude photos.”

66. On February 8, 2014, Retzlaff, using alias @BV\_Truth, falsely tweeted that Mr. McGibney had threatened him: “@Sarelya23 And how difficult is it to send yourself a nasty email and then claim that ur enemy did it? BV keeps sending ME death threats”

67. On February 9, 2014, Retzlaff, using Twitter alias @BV\_Truth, tweeted: “I wonder what happened to all the advertisers on Bullyville & Cheaterville. Several months ago it used to be FILLED with ads.” Shortly thereafter he launched a blog via the “wordpress” platform which not only continues to defame and libel Plaintiffs McGibney and ViaView, but is currently being used to viciously attack numerous board members of ViaView. As one example, Retzlaff created and posted a poll asking whether James McGibney is a pedophile. This poll was accompanied by statements strongly suggesting that Mr. McGibney is in fact a pedophile. He is not. Defendant Retzlaff posted a picture of McGibney’s children under the Pedophilia comments with the caption “are these children in danger?”

68. During this time period (October 2013 – present), Retzlaff posted numerous harassing and defamatory things on a now defunct blog at <http://itsabouttruth.wordpress.com>. His conduct included coordinating attacks against McGibney and ViaView with other blog members on ViaView advertisers. Retzlaff still operates an active blog dedicated to stalking and defaming Mr. McGibney and ViaView.

69. As recently as March 3, 2014, Defendant Retzlaff sent an email to the school principal of one of the board members children and caused such fear that the child has been removed from the school for her safety and for the safety of other children. The local Police Department in Orange County were immediately contacted and an investigation has been launched against Defendant Retzlaff. This is now the *fifth* police investigation launched against Thomas Retzlaff across the country (Las Vegas, Northern and Southern California, San Antonio and Fort Worth.)

70. As a direct result of Retzlaff’s harassment of ViaView’s board of directors and business partners, two potential investors in ViaView began to fear for their safety. This fear of Retzlaff caused these two

investors, whose potential combined investment amount totaled \$250,000, to back out of the pending deal.

71. The FBI is aware of Retzlaff as numerous complaints have been filed through IC3 and local FBI offices throughout the Country. His harassing activities have been enjoined by several different courts in actions with different plaintiffs than are present herein, through multiple restraining orders.

72. The State of Texas has deemed Retzlaff a vexatious litigant.

### **FIRST CAUSE OF ACTION**

#### **Tortious Interference With Contractual Relations**

73. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 72 of this Complaint, and reincorporate them by reference as though fully set forth herein.

74. Plaintiffs are informed and believe and based thereon allege that Retzlaff had actual or constructive knowledge that Plaintiffs had valid contracts with multiple Internet advertising companies and with celebrity sponsors of BullyVille.

75. Plaintiffs are informed and believe and based thereon allege that Retzlaff intended to induce a breach or disruption of Plaintiffs' contracts with advertisers.

76. In order to fulfill his intent to damage Plaintiffs' business, Retzlaff repeatedly and systematically made fraudulent and frivolous complaints to Plaintiffs' advertising partners and sponsors.

77. As a direct result of Retzlaff's interference with Plaintiffs' contracts and sponsors, those contracts were breached and/or disrupted.

78. Plaintiffs suffered general and special damages as a result of Retzlaff's contractual interference, including, but not limited to, harm to Mr. McGibney's reputation, emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

### **SECOND CAUSE OF ACTION**

#### **Tortious Interference With Prospective Economic Advantage**

79. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 78 of this Complaint, and reincorporate them by reference as though fully set forth herein.

1 80. Plaintiffs are informed and believe and based thereon allege that Retzlaff had actual or  
2 constructive knowledge that Plaintiffs had stable business relationships with multiple Internet  
3 advertising companies and celebrity sponsors.

4 81. Plaintiffs are informed and believe and based thereon allege that Retzlaff intended to induce a  
5 disruption of Plaintiffs' business relationships with advertisers, and to damage the prospect of future  
6 relationships with new sponsors and advertisers.

7 82. Toward that end, Retzlaff repeatedly and systematically made fraudulent and frivolous  
8 complaints to Plaintiffs' advertising partners and sponsors.

9 83. As a direct result of Retzlaff's fraudulent contact with Plaintiffs' business partners, those  
10 business relationships were disrupted and/or terminated.

11 84. Plaintiffs suffered general and special damages as a result of Retzlaff's interference with their  
12 business relationships, including, but not limited to, harm to Mr. McGibney's reputation, emotional  
13 distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

14 **THIRD CAUSE OF ACTION**

15 **Intentional Infliction of Emotional Distress (against Mr. McGibney)**

16 85. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 84 of this  
17 Complaint, and reincorporate them by reference as though fully set forth herein.

18 86. Retzlaff's intentional and/or reckless campaign of harassment, death threats, and intentional  
19 and/or reckless disclosure of Mr. McGibney's sensitive personal information on various social media  
20 platforms was, as judged by a reasonable person standard, beyond the bounds of decency and is  
21 therefore extreme and outrageous conduct.

22 87. As a direct and proximate result of Retzlaff's conduct alleged herein, Mr. McGibney has suffered  
23 general and special damages including, without limitation, harm to Mr. McGibney's reputation,  
24 emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

25 **FOURTH CAUSE OF ACTION**

26 **Defamation (against Mr. McGibney)**

27 88. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 87 of this  
28 Complaint, and reincorporate them by reference as though fully set forth herein.

89. Retzlaff's tweets and other social media were read by hundreds or thousands of others on the Internet, and constitute publication under the law.

90. Retzlaff's statements as described in Paragraphs 33, 36, 37, 43, 45, 48, 51, 55, 57, 61-63, 66 and 67 of this Complaint are false and have a natural tendency to injure the reputation and financial interests of Plaintiffs.

91. Specifically, Retzlaff's accusations that CheaterVille and BullyVille are "revenge porn websites" were false and defamatory. These false statements had a natural tendency to injure Mr. McGibney's reputation and business interests, and were, in fact, deliberately made in order to harm Mr. McGibney.

92. Using Twitter account @bv\_truther Retzlaff posted links to a known Pedophilia site which had numerous rantings and ramblings about Mr. McGibney. Mr. McGibney is a married father with three young children. He and his family live in fear, suffer tremendous anxiety and worry. His wife has suffered severe stress and anxiety about her safety, Mr. McGibney's safety and the safety of their children.

93. Mr. McGibney is informed and believes and based thereon alleges that even though he is not a "public official" or "public figure" (and thus a showing of "actual malice" is not required by the First Amendment), that Retzlaff nevertheless made the aforementioned statements either knowing they were false or in reckless disregard of the truth and with actual malice, hatred and ill will.

94. As a direct and proximate result of Retzlaff's conduct alleged herein, Mr. McGibney has suffered general and special damages including, without limitation, harm to his reputation, emotional distress, lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

### **FIFTH CAUSE OF ACTION**

#### **Public Disclosure of Private Facts Invasion of Privacy (against Mr. McGibney)**

95. Plaintiffs repeat and reallege each and every allegation in Paragraphs 1 through 94 of this Complaint, and reincorporate them by reference as though fully set forth herein.

96. Retzlaff's publication of Mr. McGibney's personal details, including the name of his wife and his home address, constituted a public disclosure of private facts and was highly offensive and objectionable, judged by the standard of a reasonable person. None of the defendant's postings at issue constitute opinions that are protected under the First Amendment of the United States Constitution.



1 Instead, the Defendants postings are in fact verbal acts that are specifically intended to harass,  
2 intimidate, annoy, cause worry, terrorize and impose as much mental anguish and pecuniary harm as  
3 possible upon McGibney and as much pecuniary and business harm as possible to ViaView, Inc.

4 97. The facts intentionally disclosed by Retzlaff were not of legitimate public concern. They were  
5 personal, private, and wholly irrelevant to any other matter of public concern.

6 98. As a direct and proximate result of Retzlaff's conduct alleged herein, Mr. McGibney has suffered  
7 general and special damages including, without limitation, harm to his reputation, emotional distress,  
8 lost earnings, and other pecuniary loss, all of which are in excess of \$75,000.

9 **RELATED LITIGATION**

10 99. Plaintiffs have filed a suit in Texas state court, but are in the process of withdrawing that suit.  
11 Plaintiffs intend to refile separate suits against each of the named defendants in the Texas suit.

12 100. Plaintiffs are also seeking a temporary restraining order in California Superior Court for  
13 the County of San Jose.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs hereby demand a jury trial for all causes of action and issues which may be determined  
16 under federal and/or California law.

17 **PRAYER FOR RELIEF**

18 Plaintiffs request that this court:

- 19 a. declare that Retzlaff has tortuously interfered with Plaintiffs' contractual relations  
20 and/or prospective economic advantage;  
21 b. permanently enjoin Retzlaff from continuing to interfere with Plaintiffs' contractual  
22 relations and/or prospective economic advantage;  
23 c. award Plaintiffs general damages according to proof at trial;  
24 d. award Plaintiffs special damages according to proof at trial;  
25 e. award Plaintiffs exemplary damages;  
26 f. award Plaintiffs attorneys' fees and court costs where appropriate;  
27 g. grant Plaintiffs any other relief the court deems just, equitable and proper.  
28

1 Dated: 6 March 2014

LAW OFFICES OF JAY LEIDERMAN

2  
3 By:     /s/ Jay Leiderman    

4 Jason S. Leiderman

5 Attorney for Plaintiffs

JAMES MCGIBNEY

VIAVIEW, INC